APPEAL NO. 031450
FILED JULY 22, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 14, 2003. The hearing officer determined that appellant (claimant) did not sustain a compensable injury and that he did not have disability. Claimant appealed these determinations on sufficiency grounds. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant correctly notes that four claimant's exhibits and eight carrier's exhibits were admitted at the hearing. Although the hearing officer did not list any exhibits under the "Evidence Presented" portion of the Decision and Order, it is clear that he considered them because he discussed several of the exhibits. We note that claimant attached to his appeal documents that were not admitted at the hearing. In deciding whether the hearing officer's decision is sufficiently supported by the evidence, we generally will not consider evidence that is submitted for the first time on appeal. Texas Workers' Compensation Commission Appeal No. 92255, decided July 27, 1992. To determine whether evidence offered for the first time on appeal requires that the case be remanded for further consideration, we consider whether it came to the appellant's knowledge after the hearing, whether it is cumulative, whether it was through lack of diligence that it was not offered at the hearing, and whether it is so material that it would probably produce a different result. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). We do not find that to be the case with the documentation attached to the claimant's request for review. The documents attached were in existence before the hearing on this matter, and claimant offers no explanation as to why they were not offered into evidence at the hearing. For this reason, we decline to give consideration to this documentation that was not in evidence at the hearing.

In opening and closing, claimant said the claimed injury is hypersensitivity pneumonitis. We have reviewed the complained-of determination regarding whether claimant sustained an occupational disease injury and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The hearing officer heard the evidence about the levels of dust and fumes in the building and reviewed the evidence regarding the cause of claimant's condition. We conclude that the hearing officer's determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Claimant contends that the hearing officer erred in determining that the sole cause of claimant's condition is asthma and bronchitis. There was evidence that claimant has both of those conditions. The hearing officer determined that "claimant's condition is related to chronic bronchitis and asthma." The hearing officer did not make a sole cause determination, but instead determined that claimant failed to meet his initial burden to prove that his condition is work related. We perceive no error.

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.

_____
Judy L. S. Barnes
Appeals Judge

CONCUR:

_____
Chris Cowan
Appeals Judge

_____
Margaret L. Turner
Appeals Judge